

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re

JOHN S. MAZELLA,

Debtor.

Case No. 10-23122-RDD

-----x Confirmed Chapter 13

JOHN S. MAZELLA,

Plaintiff,

Adv. Proc. No. 10-8455

-against-.

RONALD FELDSTEIN,

Defendant.

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**ORDER (1) DENYING DEFENDANT'S CROSS-MOTION
FOR SUMMARY JUDGMENT AND (2) GRANTING PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT**

John Mazella (the “Plaintiff”) filed a Second Amended Complaint in this adversary proceeding seeking four claims for relief against the defendant, Ronald Feldstein (“Feldstein”). Thereafter, the Plaintiff moved for entry of an order (“Plaintiff’s Motion”), pursuant to Fed. R. Bankr. 7056, declaring that the Plaintiff is the primary obligor of a judgment, dated August 26, 1998, that is entitled “State Bank of South Orange v. Tri County Mobile MRI LP, et al.”, entered in the Superior Court of New Jersey, Essex County, under Docket No. L-11211-97, and assigned to the Cadle Company, Inc. (the “Cadle Judgment”). Plaintiff’s Motion also sought entry of an order pursuant to Fed. R. Bankr. P. 7056 declaring that Feldstein is obligated to satisfy the Cadle Judgment in full, declaring that Feldstein is precluded from availing himself of any defenses not previously raised to the enforcement of the Cadle Judgment, declaring that Feldstein is obligated to reimburse the Plaintiff for all payments made previously to the Cadle Company to satisfy the Cadle Judgment, including the payments made under the Plaintiff’s Chapter 13 plan approved by this Court, declaring that the Plaintiff is obligated to pay the remaining prospective payments

due under the Plaintiff's Chapter 13 plan to the Cadle Company, declaring that Feldstein must reimburse the Plaintiff for all legal fees and costs incurred by the Plaintiff, directing Feldstein to reimburse the Plaintiff for all and any liabilities, legal fees, and costs incurred arising from the Cadle Judgment, and seeking an award for the full amount of damages incurred by the Plaintiff as a result of Feldstein's failure to comply with his agreements to satisfy the Cadle Judgment.

Feldstein cross-moved ("Defendant's Cross Motion") for an order under Fed. R. Bankr. P. 7056 seeking various forms of relief against the Plaintiff.

There was due and sufficient notice of both the Plaintiff's Motion and Defendant's Cross Motion. The Court has jurisdiction over Plaintiff's Motion and Defendant's Cross Motion under 28 U.S.C. §§ 157(a) - (b) and 1334, which are core matters under 28 U.S.C. § 157(b)(2) in which the Court may issue a final order.

The Court conducted a hearing on the Plaintiff's Motion and the Defendant's Cross Motion on December 12, 2013 (the "Hearing"). Norma E. Ortiz, of Ortiz & Ortiz, L.L.P., appeared on behalf of the Plaintiff; Edward R. Minson, of Stein Riso Mantel McDonough, L.L.P., appeared on behalf of Feldstein. At the hearing, the Plaintiff withdrew any request for relief under the Third Claim for Relief of the Amended Complaint.

Upon all of the pleadings filed in connection with Plaintiff's Motion and Defendant's Cross Motion and the record of the Hearing, and for the reasons stated by the Court in its bench ruling at the Hearing, it is hereby

ORDERED, the Defendant's Cross-Motion is denied; and it is further

ORDERED, that Plaintiff's Motion is granted in Plaintiff's favor on Claims One, Two and Four in its complaint; and it is further

ORDERED, ADJUDGED, DECREED AND DECLARED, that Feldstein is the primary obligor of the Cadle Judgment, and Feldstein shall (1) reimburse the Plaintiff for all payments made by the Plaintiff to the Cadle Company to satisfy the Cadle Judgment, including

all payments made to the Chapter 13 trustee in this case to satisfy the Cadle Judgment, (2) pay the Chapter 13 trustee prospectively all amounts as they come due to the Cadle Company under the Plaintiff's Chapter 13 plan, (3) reimburse the Plaintiff for all reasonable costs and attorneys fees incurred in connection with the Cadle Judgement and arising from Feldstein's failure to comply with his agreements to satisfy the Cadle Judgment (such amounts to be determined by the Court after notice and a hearing if not agreed by the parties), and (4) pay the Plaintiff the full amount of damages proximately incurred as a result of the Cadle Judgment (such amounts, to the extent not already covered by clauses (1) - (3) above, to be determined by the Court after notice and a hearing if not agreed by the parties).

Dated: White Plains, New York

January 30, 2014

Robert D. Drain

United States Bankruptcy Judge